

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILLIAM HENRY JAMES, II,)	
Petitioner,)	
)	
vs.)	Civil Action No. 14-328
)	Magistrate Judge Maureen P. Kelly
D. SAUERS (<i>Superintendent</i>); THE)	
ATTORNEY GENERAL OF THE STATE)	
OF PENNSYLVANIA,)	Re: ECF No. 12
Respondents.)	

ORDER

William Henry James II, (“Petitioner”) has filed a Petition for Writ of Habeas Corpus by a Person in State Custody, filed pursuant to 28 U.S.C. § 2254. The Court ordered Respondents to file an Answer. ECF No. 5. Instead of filing an Answer, the Respondents have filed a Motion to Stay Petition for Writ of Habeas Corpus (the “Motion”). ECF No. 12.

In the Motion, the Respondents explain the procedural history of Petitioner’s criminal and post-conviction proceedings in the state courts. Respondents point out that the claims Petitioner raises in the Petition, all of which are ineffective assistance of counsel claims, have not been presented to the state courts. The Respondents further note that Petitioner can still file a Post Conviction Relief Act (“PCRA”) Petition in state court, raising those claims and, can do so until December 17, 2014.

Although the Court ordered Petitioner to file a response to the Motion by August 1, 2014, Petitioner failed to do so. As of this date, Petitioner still has not filed a response.

In light of the necessity for Petitioner to exhaust his state court remedies with respect to the ineffective assistance of counsel claims in state court before presenting such claims in a federal court via a habeas petition, the Court deems it prudent to grant the Respondents' Motion.

Accordingly, the Motion to Stay is **GRANTED**. This case is stayed pending further order of Court. Respondents are ORDERED to inform this Court as soon as possible when Petitioner files a PCRA petition in state court. The case is stayed until December 17, 2014, at which time, Respondents are ORDERED to then advise the Court of the status of Petitioner's state court proceedings, if any, and the Court will proceed accordingly at that time.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

Date: August 12, 2014

BY THE COURT,

/s/Maureen P. Kelly

MAUREEN P. KELLY

U.S. MAGISTRATE JUDGE

cc: William Henry James, II
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P.O. Box 945
Marienville, PA 16239

All counsel of record via CM-ECF